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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,954	04/14/2004	Stephen M. Drummond	03-1077	7464
63710 7590 02/11/2009 DEAN P. ALDERUCCI CANTOR FITZGERALD, L.P. 110 EAST 59TH STREET (6TH FLOOR) NEW YORK, NY 10022				
EXAMINER RIVIERE, HEIDI M				
ART UNIT		PAPER NUMBER		
3689				
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02/11/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/824,954

**Applicant(s)**

DRUMMOND, STEPHEN M.

**Examiner**

HEIDI RIVIERE

**Art Unit**

3689

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-15, 20, 21 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-15, 20, 21 and 49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/06)  
Paper No(s)/Mail Date 12/4/2008; 1/6/2009; 1/6/2009.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **4 December 2008** has been entered.

### **Response to Arguments**

2. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Because "Remarks" were intentionally (As per conversation with Attorney Dean Alderucci on 2/2/2009) not filed prior to or with the RCE, Examiner is submitting a Final Action in this application and repeating the earlier rejection posted on 9/3/2008.

3. Applicant's amendments to claims 13, 15 and 20 and the inclusion of claim 49 have been considered and reviewed, however they are not a persuasive traversal of the previous Office Action. The current amendments present limitations that come within the references previously applied to this application.

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Examiner used **Cogen et al. (US 2004/0088179 A1)** in view of **Soestbergen et al. (US 2002/0143693 A1)** to reject the original claims.

4. Claims 1, 25 and 37 were rejected under 35 U.S.C. 112, however these claims have been cancelled and therefore the rejection is moot.
5. Claim 24 was rejected under 35 U.S.C. 102(e) as being anticipated by Cogen et al. (US 2004/0088179 A1), however this claim has been cancelled and therefore the rejection is moot.
6. Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over Cogen in view of Soestbergen et al. (US 2002/0143693 A1), however this claim has been cancelled and therefore the rejection is moot.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 13-15, 20-21 and 49** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Soestbergen et al. (US 2002/0143693 A1)** (hereinafter "**Soestbergen**") in view of **Cogen**.
9. **With respect to claims 1-12:** (Cancelled)
10. **With respect to claim 13:** (Currently amended) Soestbergen teaches:

- storing a volume of emission reduction benefit in memory associated with at least one computing device, the volume of emission reduction benefit derived from at least one emission reduction project created by a supplier in connection with carbon dioxide equivalent emission of the supplier; (paragraphs 70, 96-97, and 114-116 – GHG information is stored on system)
- receiving an indication, from a buyer at a point of sale terminal in communication with the at least one computing device, to purchase at least one of a product and a service; (paragraphs 97-99 – point of sale system used to purchase green house gas emission offsets)
- determining an amount of carbon dioxide reduction benefit necessary for the at least one of the product and the service to be emission neutral based at least in part of an amount of carbon dioxide generated by the at least one of the product and the service; (paragraphs 70, 96-97, 106-107 and 114-116 – CO<sub>2</sub> from fossil fuels is calculated)
- communicating to the buyer the amount of carbon dioxide reduction benefit necessary for the at least one of the product or the service to be emission neutral (paragraphs 70, 96-97, and 114-116 – GHG information is stored on system; information is calculated and greenhouse gas used and fossil fuel burned is calculated; computer contains output device)

- receiving a request from the buyer to purchase at least a portion of the amount of carbon dioxide reduction benefit necessary for the at least one of the product or the service to be emission neutral; (paragraphs 18 and 23, 70, 96-99 and 114-116 – purchase request received from a purchaser; GHG calculate and offsets ERC offsets purchased based on results);
- reducing the volume of emission reduction benefit to account for the at least a portion of the carbon dioxide benefit purchased by the buyer; (paragraphs 18 and 23, 70, 96-99 and 114-116 – purchase request received from a purchaser; GHG calculate and offsets ERC offsets purchased based on results) and

Soestbergen does not teach in response to receiving the request, providing the buyer with an emission retirement guarantee, wherein the emission retirement guarantee prevents the emission reduction benefit in the warehouse from being repurchased. However, Cogen teaches:

- in response to receiving the purchase, providing the buyer with an emission retirement guarantee, wherein the emission retirement guarantee prevents the purchased amount of emission reduction benefit from being repurchased. (paragraph 6 – “verified emission reductions (VERs) associated with emission reduction projects (ERPs) and converting the VERs into mutual portfolio units (MPUs) based on predetermined factors; paragraphs 8, 20, 71 76, 78 and 79 – ownership transferred between parties; MPUs can be

redeemed for retirement purposes; project information “must be packaged to ensure sufficient information is disclosed to convey the high quality of participants and VERs within the system”; product assessed by third party experts)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the benefits to buyers with emission retirement guarantees because this can lead to more emission reducing projects being converted to verified emissions reductions and less likelihood of fraud. (Cogen paragraph 19).

11. **With respect to claim 14:** Soestbergen teaches:

- dividing the emission reduction benefits into a plurality of smaller benefits; (Figs. 4-11, items 203-205; paragraph 71 – ERCs are “calculated and divided into 5 accounts/funds by a percentage”) and
- providing the plurality of smaller benefits to a plurality of buyers. (paragraphs 18, 23 and 26 – emission reduction value is credited to the purchasers account as an asset)

12. **With respect to claim 15:** (Currently amended) Soestbergen teaches wherein the stored volume of emission reduction benefit comprise an aggregate of emission reduction benefits from a plurality of suppliers. (Figs. 4-11, items 203-205; paragraph 71 – ERCs are “calculated and divided into 5 accounts/funds by a percentage”; paragraphs 70, 96-97, and 114-116 – GHG information is stored on system; Fig. 11b – carbon funds vary in type and supplier)

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13. **With respect to claims 16-19:** (Cancelled)

14. **With respect to claim 20:** (Currently amended) Soestbergen teaches the limitations in the rejections above. However, Soestbergen does not teach providing the plurality of buyers with a listing display that displays a plurality of emission reducing projects. Cogen teaches providing the plurality of buyers with a listing display that displays a plurality of emission reducing projects that will be reduced to account for buyers purchased carbon dioxide reduction benefit. (paragraphs 50 and 59 – record created in database for each VER; national registry used with serial number that links to project identifying information; paragraphs 18 and 23, 70, 96-99 and 114-116 – purchase request received from a purchaser; GHG calculate and offsets ERC offsets purchased based on results)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the benefits to buyers with the display of the projects because of the need to make buyers aware of what is available to be purchased.

15. **With respect to claim 21:** Soestbergen teaches the limitations in the rejections above. However, Soestbergen does not teach providing each of the plurality of buyers with an opportunity to search for the emission reducing project. Cogen teaches providing each of the plurality of buyers with an opportunity to search for the emission reducing project. (paragraphs 50 and 59 – record created in database for each VER; national registry used with serial number that links to project identifying information)



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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the benefits to buyers with the ability to search for projects because of the need to make buyers aware of what is available to be purchased.

16. **With respect to claims 22-48:** (Cancelled)

17. **With respect to claim 49: (NEW)** Soestbergen teaches determining a price for the determined amount of carbon dioxide reduction benefit necessary for the at least one of the product and service to be emission neutral and communicating to the buyer the determined price. (Figs. 4-11, items 203-205; paragraphs 71, and 114-116 – ERCs are “calculated and divided into 5 accounts/funds by a percentage”; computer/system contains output device)

### **CONCLUSION**

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. R./  
Examiner, Art Unit 3689

/Tan Dean D. Nguyen/  
Primary Examiner, Art Unit 3689  
February 9, 2009